

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BERNADETTE DAVIS
1030 Avenue B
Langhorne, PA 19047,

Plaintiff,

vs.

ACB AMERICAN, INC.
4351 Winston Avenue
Covington, KY 41015,

Defendant.

CIVIL ACTION NO.

COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 (“FDCPA”).

2. The FDCPA prohibits debt collectors from engaging in deceptive and unfair practices in the collection of consumer debt.

3. Defendant is subject to strict liability for sending a collection letter which violates the provisions of the FDCPA.

II. JURISDICTION

4. Jurisdiction arises under 15 U.S.C. §1692k, and 28 U.S.C. § 1337.

III. PARTIES

5. Plaintiff Bernadette Davis (“Plaintiff” or “Davis”) is a consumer who resides in Langhorne, Pennsylvania at the address captioned above.

6. Defendant ACB American, Inc. (“Defendant” or “ACB”) is upon information and belief a Kentucky corporation with a principal place of business in Covington, Kentucky and a mailing address as captioned above.

7. ACB regularly engages in the collection of consumer debts in the Eastern District of Pennsylvania using the mails and telephone.

8. ACB regularly uses the mail and telephone to attempt to collect consumer debts alleged to be due another.

9. ACB is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. §1692a(6).

IV. STATEMENT OF CLAIM

10. On December 11, 2009, Plaintiff Bernadette Davis was sent a form collection letter in an attempt to collect a consumer debt allegedly due to Citibank – Helzberg Company. A copy of the December 11, 2009 letter is attached hereto as Exhibit “A”, redacted for privacy pursuant to Fed. R. Civ. Pro. 5.2.

11. The December 11, 2009 collection letter reads in part:

“We have verified that you own property via the auditor in your county. Unless you pay the balance or contact this office to make arrangements suitable to our office to pay the balance, we shall inform your creditor that you refuse to cooperate. Your response will determine our next step”.

(Ex. A).

12. ACB did not verify that Plaintiff Davis owns property “via the auditor” in Bucks County, Pennsylvania. Indeed, there is no “auditor” in Bucks County.

13. The December 11, 2009 collection letter violates the FDCPA because it falsely represents that ACB communicated with the “auditor” in Bucks County regarding property

allegedly owned by Plaintiff, when ACB did not do so, could not do so, and had no intention of doing so.

14. Section 1692e of the FDCPA prohibits a debt collector from making false, deceptive or misleading statements in connection with the collection of any debt, including the threat to take any action that cannot legally be taken or that is not intended to be taken. 15 U.S.C. §1692e, §1692e(5), and §1692e(10).

15. This gratuitous reference to contacting some “auditor,” a county official, was made in the effort to intimidate the consumer into paying a debt.

COUNT I - FAIR DEBT COLLECTION PRACTICES ACT

16. Plaintiff repeats the allegations contained above as if the same were set forth here at length.

17. The acts by Defendant described above violate the Fair Debt Collection Practices Act by using false, deceptive or misleading representations or means in connection with the collection of a consumer debt. 15 U.S.C. §1692e.

WHEREFORE, Plaintiff Bernadette Davis demands judgment against Defendant ACB American, Inc. for:

- (a) Damages;
- (b) Attorney’s fees and costs;
- (c) Such other and further relief as the Court shall deem just and proper.

V. **DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted:

Date: 09/30/10



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